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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,880	03/23/2004	David A. Goldman	20060/10001D	3874
34431 7590 07/31/2008 HANLEY, FLIGHT & ZIMMERMAN, LLC 150 S. WACKER DRIVE SUITE 2100 CHICAGO, IL 60606				
EXAMINER DURHAM, NATHANE				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
07/31/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,880

Applicant(s)

GOLDMAN, DAVID A.

Examiner

NATHAN E. DURHAM

Art Unit

3765

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 30 June 2008 has been entered.

Response to Amendment

Applicant's amendment and corresponding arguments, filed 30 June 2008, have been reviewed and considered. Claims 1, 8 and 15 have been amended and therefore, claims 1-24 are currently pending. The applicant's amendment is considered sufficient in overcoming the rejection as presented in the previous Office Action for the reasons as discussed in the Interview Summary dated 3 July 2008. Accordingly, applicant's arguments corresponding to the amendment are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by KOMURO et al. (U.S. Patent 5,191,536).

Regarding claim 1, KOMURO discloses a method of generating embroidery data from image data (Col. 12, Lines 41-55) (Figures 11 and 12) comprising automatically identifying a singular region (any one of the blocks as represented by encircled reference numerals 1-15 as shown in figure 30) from a plurality of regions (blocks represented by encircled reference numerals 1-15 of figure 36 represent the plurality of regions) associated with the image data. Figures 10B and 10C discloses automatically identifying a singular region from a plurality of regions by determining if a singular region is an end block, junction block, or neither an end block or junction block (Col. 27, Line 51 – Col. 29, Line 40). KOMURO then discloses determining a stitch path which is representing a merging of the plurality of regions associated with the singular region into a single continuous area to be embroidered (Fig. 37) (Col. 27, Line 51 – Col. 35, Line 44) (Figures 10B-10K). The stitch path is considered occluded boundary information because the stitch path is merging the plurality of regions which are represented by outline information. KOMURO discloses generating embroidery data based on the occluded boundary information (S39 of figure 4C) (Col. 35, Lines 45-56).

Regarding claims 2 and 3, KOMURO discloses the singular region capable of being any one of the blocks represented by encircled reference numerals 1-15 of figure 36. Note the many different positions of a singular region including positions associated

with a convergence or termination of at least one of the other plurality of regions and positions associated with a convergence of edges of the image data (Fig. 36).

Regarding claims 4 and 5, KOMURO discloses the singular region being identified with the use of analyzing skeletal data (Figures 10A-10K) (Col. 28, Line 54 - Col. 29, Line 40). The skeletal data is considered the ends (edges) of the blocks numbered 1-15 (encircled reference numerals) as shown in figure 36 because they are shown within the area E. For example, lines 4-29, 14-21, 28-23, 5-12, etc are considered skeletal data. Note the lines defining the blocks are generated using a type of distance transform algorithm that processes edge contour data (outline data of E) (Figures 9A-9C and the corresponding specification).

Regarding claims 6 and 7, KOMURO discloses the image data being associated with a scanned image and including a bitmap (col. 12, Lines 41-55) (S1 of figure 4A) (Figures 11 and 12).

Claims 8-21 are also rejected under 35 U.S.C. 102(e) by KOMURO for the same reasons as discussed above. In regards to claims 8 and 15 (memory, processor and program instructions), note column 11, line 49 – column 12, line 36 and figure 2 of KOMURO.

Regarding claims 22-24, note figures 37 and 38 of KOMURO wherein the embroidery data is created based on the stitch path which uses energy minimization information to create a path that uses less embroidery machine energy by creating the embroidery pattern in a fast and productive manner.

Conclusion

The prior art made of record, as cited on attached PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN E. DURHAM whose telephone number is (571)272-8642. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NED

/Gary L. Welch/

Art Unit: 3765

Supervisory Patent Examiner, Art Unit 3765